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Silence may cost Phoenix \$4 mil

Truck facility wasn't told it is in Loop 202's path

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The South Mountain Freeway has been on the drawing board to go through Ahwatukee Foothills and west Phoenix for nearly 20 years, but that came as a surprise recently to an Indiana company that is building a \$4 million truck maintenance facility in its preferred path.

During the entire permit processing period, Phoenix officials failed to disclose that the land was in the most likely freeway route. As a result, taxpayers may have to foot a bill of more than \$4 million to buy out the developer and move the facility.

State officials say such disclosures are the city's responsibility.

"We communicate with them (the city) the alignment. We, in turn, need them to communicate that to landowners," said Matt Burdick, spokesman for the Arizona Department of Transportation.

"Our goal is to buy the land and forestall development. We'd much rather buy the land than the structure."

ADOT chose the western alignment along 55th Avenue for Loop 202, the South Mountain Freeway, in June, disregarding a citizens advisory team that had reviewed three routes over four years. ADOT had considered building the freeway to connect with Interstate 10 at Loop 101, or 71st Avenue or 55th Avenue. The citizens group had urged the Loop 101 alignment.

ADOT originally identified Pecos Road in Ahwatukee Foothills and 55th Avenue as alignments in 1988, and the Phoenix City Council adopted a resolution several years ago backing those routes.

That decision apparently didn't trickle down to city staffers.

Derek Horn, the city's deputy development services director, said it is up to property owners, not the city, to determine whether development projects would be affected by the proposed freeway.

"The freeway plans have been in the public domain for years," Horn said. "As a property owner, when it comes to due diligence, it's a developer's responsibility to determine if they have the right zoning, the right infrastructure and whether the project is in the right of way of a freeway or any road alignment."

Horn said there is no indication that Phoenix officials ever told Speedco its facility could be in the proposed path.

There is no law requiring disclosure, but at least one real-estate agent said most realty companies require sellers to tell potential buyers of freeways and other projects that could affect the value of their investment.

"If they (Speedco) went and obtained those permits, I don't understand why the city

didn't disclose that," said Linda Berg, a Coldwell Banker real estate agent and president of the Southeast Valley Regional Association of Realtors.

ADOT, which would build the freeway, also hasn't erected signs along the freeway's proposed route to notify the public.

Both factors have led some critics, including ADOT itself, to wonder whether Phoenix is doing a good job protecting the route for the freeway as, for example, Chandler and Gilbert did during the construction of Loop 202 through those communities.

"We're working with the city of Phoenix, where we've had for one reason or another a failure to communicate and we're trying to figure out how we can adapt our process to make it work," Burdick said.

For years, ADOT has used its "red letter process" in which cities or counties disclose potential paths for a freeway before developers spend money to bring utilities to their properties and build homes or businesses.

Chandler plotted route

In Phoenix, the process hasn't worked, Burdick said, adding, "we've had too many cases where now we're left with a situation of not having to buy land but a business or a home."

Compare that with Chandler, which plotted the most likely route for Loop 202, the Santan Freeway, through its city in the mid-1980s, even before ADOT studied the route.

"We couldn't wait two, three years because those master plan developers wanted to plat their land," said Hank Pluster, Chandler's long-range planner. "We wanted to minimize the number of houses, of course, that had to be acquired."

The city also erected signs marking locations of "future interchanges" along the route so that passersby would know well in advance of the freeway's expected path.

Freeway opponents have said that Phoenix has done a poor job of protecting the proposed freeway right of way, which could lead to the demolition of 255 homes along Pecos Road in Ahwatukee Foothills alone. In 1988, ADOT picked Pecos as the likely site after a state-level environmental study identified a potential east-side route for the 22-mile freeway.

Many home builders either didn't disclose the route or home buyers didn't care or didn't believe that the freeway would ever be built. Even today, a final decision over whether and where to build the freeway hasn't been made. And the Maricopa Association of Governments, which is composed of the Valley's mayors, hasn't voted whether to fund the \$1.7 billion project.

"It's a tough challenge, because people have property rights that are well protected by the Constitution, and their ability to proceed forward with development is pretty much established in case law and constitutional law," said state Sen. John Huppenthal, who served on the Chandler City Council during planning of the Loop 202 and Loop 101 freeways.

"But there's a lot you can do, a lot we did in Chandler. We really aggressively worked the zoning and worked with MAG to get the land purchased and the right of way.

"We also worked with the developers to grant them, in exchange for getting them to keep development off the proposed path of the freeway, extra density in other parts of their parcels. And we granted them perhaps a little more commercial along that same path."

Those deals may have been easier to make because both Chandler and Gilbert were less developed than Phoenix.

"They have some additional challenges in Phoenix that we didn't have in Chandler," Huppenthal said.

Speedco frustrated

For its part, Speedco, which is based in Cayuga, Ind., is frustrated that Phoenix planners didn't mention that its facility near 56th Avenue and Latham would be in the proposed path of the freeway. The company paid nearly \$36,600 in development fees for water and sewer service, impact fees for roads, parks and other amenities in the city and a building permit.

"You kind of get into a pointing match, but at the end of the day, if they condemn my property, I want to be paid for it and the improvements I've made on it," said Jim Dudley, vice president of planning and development for Speedco.

Ironically, a truck stop needs to be close to an interstate highway. Being on it or in its path is another thing altogether.

"We wanted to be in that neighborhood because that was the best possible property," Dudley said.

The company began working on finding a site for its truck stop about two years ago, Dudley said, and bought the parcel about a year ago. Dudley said neither his company nor the construction manager were aware of the freeway plans.

He learned of the freeway after reading a newspaper story and contacted ADOT.

"At the end of the day, we've got to keep on keeping on," he said.

Reporter Betty Beard contributed to this story.

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